IN THE HIGH COURT OF GUJARAT AT AHMEDABAD

COMPANY PETITION No. 201 of 2004

For Approval and Signature:

HONOURABLE MR.JUSTICE R.S.GARG

==========

1 Whether Reporters of Local Papers may be allowed to see the judgment ?

2 To be referred to the Reporter or not ?

3 Whether their Lordships wish to see the fair copy of the judgment ?

4 Whether this case involves a substantial question of law as to the interpretation of the constitution of India, 1950 or any order made thereunder ?

5 Whether it is to be circulated to the civil judge ?

==========

RAVI CORPORATION - Petitioner(s)
Versus
PROJECT TECHNOLOGISTS PVT.LTD. - Respondent(s)

==========

Appearance :
MR SUDHIR M MEHTA for Petitioner(s) : 1,
MR ACHARYA for MR PR NANAVATI for Respondent(s) : 1,

==========

CORAM : HONOURABLE MR.JUSTICE R.S.GARG

Date : 27/04/2006

ORAL JUDGMENT

Heard the learned counsel for the parties. On 23rd March, 2006, Hon'ble Mr. Justice M.R. Shah has recorded detailed reasons for admitting the petition. It has been observed in the order that according to the respondent –

Company, the outstanding amount due and payable to the petitioner is Rs.11,90,247/- (Rupees Eleven lakh ninety thousand two hundred and forty-seven) and that the respondent – Company is closed since long, it was a loss-making company and as on 31st March, 2004, the accumulated losses were approximately Rs.1.25 crores.

2. The court directed that the hearing be advertised in two daily newspapers. The hearing has accordingly been advertised.

3. Mr. Acharya, learned counsel for the respondent – Company submits "that this court should grant some more time to the respondent – Company to settle the matter" (emphasis supplied). He further submits that the order dated 23rd March, 2006 has been subjected to an appeal but unfortunately, the appeal has not come up for hearing. He submits that the matter be adjourned awaiting orders in the appeal.

4. In the opinion of this court, the conduct of the respondent – Company disentitles it from any relief. If the order of admission was made on 23rd March, 2006, then an appeal should have been taken to the Appellate Court

immediately and the matter should have been mentioned to the Bench that if the matter is not heard, heavens would fall. Unfortunately, despite lapse of one month and four days, the respondents could not secure any order from the Appellate Court rather they could not get the case listed for its consideration.

5. So far as further opportunity to settle the matter is concerned, in the opinion of this court, no useful purpose would be served by adjourning the matter for few days, few months or few years because there appears to be no honest attempt on the part of the respondents to liquidate the dues.

6. Taking into consideration the totality of the circumstances and the fact that the accumulated losses are more than Rs.1.25 crores, I am of the considered opinion that the respondent – Company deserves to be wound up. It is accordingly ordered. The Official Liquidator associated with this court is appointed as Official Liquidator, is authorised to take possession of the property (movable and immovable) belonging to the Company, all the account books, cash-in-hand and the cash deposited with the Bank. He is further authorised to

take help and assistance of the Official Valuer for preparation of the inventory and the Valuation Report. He is also authorised to take police assistance in case any resistance is offered at the time of taking possession by the Official Liquidator.

7. To give some breathing time to the respondent – Company to obtain an order from the Appellate Court, I direct the Official Liquidator that he shall not take possession of the property up to 12th May, 2006. In case any appellate order is produced before him staying the effect and operation of the order dated 23rd March, 2006 whereunder the petition was admitted, then he shall stay his hands off but in case by 12th May, 2006, no stay order is produced before him, then the Official Liquidator shall be obliged to observe this order. The petition stands disposed of.

(R.S. Garg, J.)

hki